

SEP 12 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL DEL TORO AGUILAR; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-70957

Agency Nos. A96-361-765  
A96-361-766

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted September 8, 2008 <sup>\*\*</sup>

Before: TASHIMA, SILVERMAN, and N.R. SMITH, Circuit Judges.

Manuel Del Toro Aguilar and his wife Anita Sanchez Zamora, natives and  
citizens of Mexico, petition pro se for review of the Board of Immigration Appeals'

---

<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

decision denying their application for cancellation of removal based on their failure to establish the requisite exceptional or extremely unusual hardship to their qualifying United States citizen children.

Petitioners contend that the immigration judge erred in finding that the female petitioner did not establish ten years continuous residence, and that the male petitioner was ineligible for cancellation relief because of his felony conviction. Petitioners further contend that the BIA violated their due process rights by depriving them of a fair and full hearing by not considering the IJ's rulings on these issues.

Petitioners fail to present a colorable due process claim. The BIA's determination that petitioners failed to establish hardship is dispositive of their cancellation of removal claims, and it was unnecessary for the BIA to consider the IJ's findings on the other cancellation factors. *See INS v. Bagmasmad*, 429 U.S. 24, 25 (1976). We lack jurisdiction to review the BIA's discretionary determination that petitioners failed to demonstrate the requisite hardship to their qualifying relatives. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

**PETITION FOR REVIEW DISMISSED.**